

5:80-9.13 Rent increases for low and/or moderate income projects without Federal project based rent subsidies

(a) Sponsors of housing projects without project-based Federal rent subsidies may elect to implement rent increases in accordance with the rules in this section rather than those in N.J.A.C. 5:80-9.1 through 9.12. The rules within this section may be used only after the owner demonstrates through an Agency approved annual tenant income certification process that at least 10 percent of the units are rented to low income families and the balance rented to moderate income families. [HUD's definition of low and moderate income families shall be used for the purposes of the following:] For the purposes of this section, a low income family is a family that earns 50 percent or less of the HUD area median income and a moderate income family is one that earns greater than 50 percent but no more than 80 percent of the HUD area median income. The foregoing provision defining a low income family and a moderate income family in effect as of (effective date of amendment) shall be retroactive and considered effective as of June 20, 1994.

1. Sponsors shall submit a written request to the Agency, accompanied by the current tenant income certifications, the most recent HUD median income figures and the maximum rents corresponding to the median income figures. The Agency will review and verify the information contained therein and, if accurate, approve the rent increase, up to a maximum of 10 percent for low income units and 20 percent for moderate income units, not to exceed the maximum rents corresponding to the median income figures. The Agency will provide written notice of the approval to the Sponsor.

This memorandum contains advisory, consultative and deliberative material and is intended only for the person(s) named as recipient(s).

2.-3. (No change.)

(b) Sponsors of projects without project-based Federal rent subsidies, which do not meet the low and moderate income unit distribution set forth in (a) above, may elect to convert their project to that unit distribution [and thereby be subject to (a)1 through 3 above]. Following a successful conversion to a project with at least 10 percent of the units reserved for or rented by low income families and the remainder reserved for or rented by moderate income families, rent increases may be implemented via (a)1 through 3 above.

1. Sponsors who elect to convert shall get credit toward the 10 percent or greater low income[,] and 90 percent or less moderate income family unit distribution for any existing tenants meeting such standard following an Agency approved tenant income certification process. As vacancies occur, the units shall first be rented to low income families to fulfill the 10 percent or greater low income requirement and then [90 percent to moderate income families] the remainder to moderate income families to fulfill the moderate income requirement.

2. In the event that any of the [90 percent] moderate income units have current rents at less than the maximum moderate income rent provided under (a)1 above, rent increases [for] shall be phased in over the first five years following [conversion shall be permitted up to 20 percent per year (without regard to HUD increases in median income)] election to convert until [HUD's] the maximum [moderate income] rent is reached for a moderate income

family. The maximum allowable annual rent increase is determined by taking the dollar difference between the current rent of a unit and the maximum moderate income rent provided herein at the time of election to convert, and dividing the difference by five. The resulting number will be the maximum allowable annual increase for moderate income units under this section. However, in no event may the rent increase in a given year be greater than 20 percent of the then current rent for a unit. Thereafter, rents for moderate income units shall be implemented pursuant to (a)1 through 3 above.

(c) Low income units [shall] may revert to moderate income units 15 years after the conversion. At such time, rent increases [for] shall be phased in over the next five years [shall be permitted up to 10 percent per year (without regard to HUD increases in median income)] until [HUD's] the maximum [moderate income] rent is reached for a moderate income family. The maximum allowable annual rent increase is determined by taking the dollar difference between the current rent of a unit and the maximum moderate income rent provided herein at the time of the reversion of the low income units, and dividing the difference by five. The resulting number will be the maximum allowable annual increase for moderate income units under this section. However, in no event may the rent increase in a given year be greater than 10 percent of the then current rent for a unit. Thereafter, rents shall be implemented pursuant to (a)1 through (3) above.

(d) If a project currently has more than 10 percent low income residents, such units must be maintained as low income units until vacancies occur.

[(d)](e) (No change in text.)

~~[(e)]~~(f) Sponsors who wish to implement rent increases in excess of those permitted in (a) and (b) above may request such increase in writing. The excess rent increase amount shall be subject to the procedures at N.J.A.C. 5:80-9.4 through 9.12. The entire rent increase amount shall be considered for determining whether or not a hearing is required pursuant to N.J.A.C. 5:80-9.10. [No increase may be approved which would increase rents in excess of those permitted by other applicable rent restrictions, for example, low income tax credit restrictions, tax exempt bond financing restrictions.]

(g) No rent increase may be approved which would increase rents in excess of those permitted by other applicable rent restrictions, for example, low income tax credit restrictions, tax exempt bond financing restrictions.